

SENATE BILL REPORT

SSB 5935

As Passed Senate, May 9, 2011

Title: An act relating to adoption support payments.

Brief Description: Addressing adoption support payments for hard to place children.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senator Hargrove).

Brief History:

Committee Activity: Ways & Means: 4/26/11, 4/28/11, 5/03/11, 5/05/11 [DPS].

First Special Session: Passed Senate: 5/09/11, 42-2.

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Substitute Senate Bill No. 5935 be substituted therefor, and the substitute bill do pass.

Signed by Senators Murray, Chair; Kilmer, Vice Chair, Capital Budget Chair; Zarelli, Ranking Minority Member; Parlette, Ranking Minority Member Capital; Baumgartner, Baxter, Brown, Conway, Hatfield, Holmquist Newbry, Honeyford, Kastama, Kohl-Welles, Pridemore and Schoesler.

Staff: Jennifer Strus (786-7316) and Michael Bezanson (786-7449)

Background: The Adoption Support Program is governed by both state and federal law. Washington's adoption support statutes were adopted in 1971, almost ten years before the federal law was passed. Washington law authorizes support for "hard to place" children without defining the term while the federal law uses and defines the term "special needs child." Because the federal adoption support law is part of Title IV-E of the Social Security Act, it requires any state having an approved Title IV-E plan to enter into adoption assistance (support) agreements with the adoptive parents of special needs children.

Federal law requires that three criteria be met for a child to qualify as a "special needs child":

1. The child cannot be returned home;
2. The child has a specific factor or condition that makes it reasonable to conclude that the child cannot be placed with adoptive parents without providing adoption assistance or Medicaid; and

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

3. The state must determine that in each case, a reasonable but unsuccessful effort to place the child with appropriate parents without providing adoption assistance has been made.

Under the second criteria above, the state has the right to determine what constitutes a special factor or condition. Washington defines a hard to place child as:

- a child of a minority ethnic background;
- a child who is six years of age or older at the time of the application for adoption support;
- a child who is a member of a sibling group of three or more or of a sibling group in which one or more siblings meets the definition of special needs;
- a child who is diagnosed with a physical, mental, developmental, cognitive, or emotional disability; or
- a child who is at risk for a diagnosis of a physical, mental, developmental, cognitive, or emotional disability due to prenatal exposure to toxins, a history of serious abuse or neglect, or genetic history.

An adoption support agreement entered into between the adoptive parents and the state is a contract. Under federal law, agreements must be individually negotiated and the amount of the subsidy cannot exceed the amount of the foster care maintenance payment the child would receive if the child were in foster care.

The adoption support program may provide one or more of the following benefits:

- reimbursement for nonrecurring adoption finalization costs - limited to \$1500 per child;
- cash payments (adoption subsidy);
- payment for counseling services as preauthorized; or
- medical services through the Medicaid program.

Summary of Substitute Bill: An adoptive parent who adopts a child from the foster care system after providing foster care services to that child, does not qualify for the adoption support subsidy if the adoptive parent received the basic foster care rate for the child while the child was in care, and did not spend in excess of the hours one would normally spend meeting the needs of a typically developing child. The adoptive parent and child would qualify for all other adoption support services, including medical care.

An adoptive parent – who was a relative or other unpaid caregiver for the child during the time the child was in the dependency system – who subsequently adopts that child, does not qualify for the adoption subsidy if, had the caregiver been a licensed foster parent, the adoptive parent would have received the basic foster care rate for the child while the child was in care, and did not spend in excess of the hours one would normally spend meeting the needs of a typically developing child. The adoptive parent and the child would nonetheless qualify for all other adoption support services, including medical care.

These provisions apply to adoption support agreements entered into on or after July 1, 2011.

Appropriation: None.

Fiscal Note: Not requested.

Committee/Commission/Task Force Created: No.

Effective Date: The bill contains an emergency clause and takes effect on July 1, 2011.

Staff Summary of Public Testimony: OTHER: We are still waiting on analysis from the Department of Social and Health Services. We have concerns that there may be conflicts with this bill and federal Title IV-E law, and that this bill may effect the number of adoptions. Adoption is a permanency option in this state to help address barriers in foster care and improve outcomes for children. We would like to hear from the department on these items. We would also like to hear from adoptive parents.

Persons Testifying: OTHER: Laurie Lippold, Children's Home Society of Washington.